

**Plaintiffs' Memorandum in Opposition
to Joint Motion for Summary
Judgment for Failure to Prove Fault
Element of Public Nuisance Claims**

**Ex 33 – Prevoznik Tr. (4-18-19)
Excerpts**

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 - - -

5
6 IN RE: NATIONAL : HON. DAN A.
7 PRESCRIPTION OPIATE : POLSTER
8 LITIGATION :
9 :
10 APPLIES TO ALL CASES : NO.
11 : 1:17-MD-2804
12 :
13 :

14 - HIGHLY CONFIDENTIAL -

15 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

16 VOLUME II
17 - - -
18 April 18, 2019
19 - - -
20 Continued videotaped
21 deposition of THOMAS PREVOZNIK, taken
22 pursuant to notice, was held at the law
23 offices of Williams & Connolly, 725 12th
24 Street, Washington, D.C., beginning at
 8:16 a.m., on the above date, before
 Michelle L. Gray, a Registered
 Professional Reporter, Certified
 Shorthand Reporter, Certified Realtime
 Reporter, and Notary Public.

25 - - -
26 GOLKOW LITIGATION SERVICES
27 877.370.3377 ph | 917.591.5672 fax
28 deps@golkow.com
29
30

1 THE WITNESS: Yes.

2 BY MR. FARRELL:

3 Q. So going back and looking
4 backwards from this very same energy and
5 commerce report, I happened to be
6 familiar with it because of the West --
7 because of West Virginia. The Sav-Rite
8 Pharmacy from Page 125, Congress went
9 back and looked at the old ARCOS data.
10 And from it, what it's determined was
11 that McKesson Corporation -- are you
12 familiar with the company called
13 McKesson?

14 A. Yes, I am.

15 Q. And who are they?

16 A. They are a wholesaler,
17 distributor.

18 Q. McKesson Corporation sold
19 five million doses in 2006 and 2007 of
20 opium pills to a pharmacy in Kermit, West
21 Virginia. Can you, by looking at this
22 exhibit, tell me how many people,
23 according to Congress, live in Kermit,
24 West Virginia?

1 MR. STEPHENS: Objection to
2 form and scope.

3 MR. O'CONNOR: Objection.

4 MR. EPPICH: Objection.
5 Foundation.

6 THE WITNESS: 406.

7 BY MR. FARRELL:

8 Q. All right. So under any
9 reasonable -- is there any possibly way
10 that a town of 406 has a medical need for
11 over five million pills of opium in a
12 span of two years?

13 MR. EPPICH: Objection.
14 Foundation. Calls for
15 speculation. Scope.

16 MR. STEPHENS: Scope as
17 well.

18 MR. FINKELSTEIN: I'll join
19 the scope objection.

20 You can answer if you
21 understand.

22 THE WITNESS: Could you
23 repeat it, please, one more time?

24 BY MR. FARRELL:

1 Q. Yeah. Is there any basis
2 that you can make up in reality or
3 otherwise where a town of 400 people have
4 a medical need for five million pills of
5 opium in a span of 24 months?

6 MR. EPPICH: Objection.
7 Form. Foundation. Scope. Calls
8 for speculation.

9 THE WITNESS: Correct.
10 There isn't. There isn't.

11 BY MR. FARRELL:

12 Q. There is absolutely no way,
13 is there?

14 MR. EPPICH: Same
15 objections.

16 THE WITNESS: No.

17 BY MR. FARRELL:

18 Q. So while some people may ask
19 the DEA why you didn't catch this, my
20 question to the DEA is why didn't you
21 indict McKesson?

22 MR. EPPICH: Objection to
23 form --

24 MR. FINKELSTEIN: I'm going

1 take other civil action or an
2 injunctive action against the
3 company, or we could criminally
4 prosecute.

5 BY MR. FARRELL:

6 Q. Was the DEA in fact
7 frustrated that registrants were
8 blatantly violating the MOUs from prior
9 administrative actions?

10 MR. EPPICH: Object to form.

11 THE WITNESS: Yes.

12 BY MR. FARRELL:

13 Q. And which registrants are we
14 talking about in particular?

15 MS. MAINIGI: Objection.

16 Scope. I would like to go ahead
17 and get an objection on the record
18 and get a response from DOJ as
19 well as it relates to individual
20 defendants or individual
21 registrants.

22 Our understanding is that
23 individual registrants or
24 defendants are outside the scope

1 that -- where I asked you generally which
2 registrants we are talking about.

3 And I'm going to go and give
4 you more specific information.

5 So the last question that
6 was pending and answered, I asked: "Was
7 the DEA in fact frustrated that
8 registrants were blatantly violating the
9 MOUs from prior administrative actions?"

10 And your answer was: "Yes."

11 There were appropriate
12 objections that were made that will be
13 resolved one day in the future. So
14 here's where my follow-up questions
15 comes.

16 A. Okay.

17 Q. Does that include Cardinal
18 Health's 2008 MOU and settlement which
19 resulted in a second DEA fine?

20 A. Yes.

21 MS. MAINIGI: Objection.

22 Objection. Scope. Objection.

23 Form. Let me just go ahead and
24 begin at least noting, and then

1 that matter deliberative process
2 or law enforcement sensitive
3 information.

4 I will continue to make
5 appropriate objections, and where
6 appropriate instruct the witness
7 not to answer. The defendants
8 have made their objections and
9 have preserved them for the
10 record.

11 You can answer.

12 BY MR. FARRELL:

13 Q. Does that include McKesson's
14 2008 MOU and settlement which resulted in
15 a second DEA fine?

16 MR. EPPICH: Objection.
17 Scope.

18 THE WITNESS: Yes.

19 BY MR. FARRELL:

20 Q. I'm not going to play this
21 video clip. Instead I'm going to ask it
22 in a form of a question.

23 During the same testimony
24 acting -- is it administrator?